

Statement of

The Honorable Russ Feingold

United States Senator
Wisconsin
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Senate Judiciary Committee
Subcommittee on the Constitution, Civil Rights, and Property Rights

Hearing on "The Consequences of Legalized Assisted Suicide and Euthanasia"

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Thank you Mr. Chairman. I want to join you in welcoming our witnesses, and I thank you and your staff for working with us to put together balanced panels on this difficult and emotional topic. I sincerely admire all of our witnesses' dedication and commitment to the quality of care for the terminally ill.

Patients who suffer from terminal illnesses face, along with their families, decisions that most of us would rather not make. End-of-life decisions, such as the refusal or withdrawal of life-sustaining medical treatment and whether to seek palliative care that may hasten a patient's death, raise very difficult questions of how to reconcile patient autonomy, advances in medical technology, and religious precepts. Whether terminally ill patients should have some say in the manner and time of their deaths is a complicated and extraordinarily wrenching public policy issue. These are consequential decisions that Americans face every day. No one, least of all the government, can answer those questions for every patient or every family in every situation. To the greatest extent possible, recognizing, of course, the need to protect vulnerable elderly or disabled individuals from pressure and abuse, government should leave these decisions to patients and their families in consultation with their medical and spiritual advisors.

Under what circumstances a terminally ill or comatose patient has the right to die according to his or her wishes -- the so-called "right to die" debate -- requires careful consideration of numerous complicated medical, ethical, and legal factors. Congress should not repeat the mistake it made last year when it tried to interfere with a state court's proceedings concerning Terri Schiavo. I hope that today's hearing will shed light on these issues and allow us to act more carefully and with more humility in the future.

The Supreme Court held in the 1997 decision *Washington v. Glucksberg* that there is no constitutional right to assisted suicide. The opinion noted, however, that state legislatures had begun to evaluate physician assisted suicide. And Justice O'Connor noted in her concurrence in the case: "There is no reason to think the democratic process will not strike the proper balance between the interests of terminally ill, mentally competent individuals who would seek to end their suffering and the State's interests in protecting those who might seek to end life mistakenly or under pressure."

In 1994, the voters of the state of Oregon approved the Oregon Death with Dignity Act, which allows for state-licensed physicians to dispense or prescribe a lethal dose of drugs upon the request of a terminally ill patient. That law, the first of its kind in the country, survived efforts to repeal it in the state legislature and was passed in a second statewide referendum in 1997. The law was upheld against a constitutional challenge. Then the Department of Justice tried to prevent it from being implemented, but a 6-3 majority of the Supreme Court in *Gonzales v. Oregon* ruled that the Attorney General could not use the Controlled Substance Act to prohibit doctors from prescribing regulated drugs for use in physician assisted suicide under Oregon law.

I am pleased that Senator Wyden has joined us today to give his perspective on his state's experience. In addition, two of our witnesses today, Ann Jackson and Julie McMurchie, are from Oregon and have firsthand knowledge of how the Death with Dignity Act has worked.

I look forward to hearing the insights offered by our witnesses today. Thank you.